

How to Use the IT Staff Augmentation Lower Overhead Contracts

Contract #: ITS63StaffAugCat2a (vendor hires resource)

ITS63StaffAugCat2b (vendor subcontracts with resource employer)

Contract Duration: 07/01/2016 to 06/30/2021

MMARS #: ITS63StaffAugCat2a* and ITS63StaffAugCat2b*

Options to Renew: No options available

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UNSPSC: 80-11-18

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Contract Summary

These Contracts are for temporary IT staff (“Resources”) where the Commonwealth Agency has located and recruited the Resource they wish to retain. Category 2a is used when the Resource (i.e., the person providing services) has no employer. The Category 2a vendor will hire the Resource as their employee. Category 2b is used when the Resource already has an employer. In that case, the Category 2b vendor will subcontract with the Resource’s employer. All Resources retained under this contract must have an employer.

If your Agency has not located a Resource, use ITS63StaffAugCat1, the “full service” Contract. The Category1 vendors will review your Agency’s requirements for a Resource, and submit resumes for your review and selection.

Please see “[Locating Documents on COMMBUYS](#)” to find the documents referenced in this Guide.

Benefits and Cost Savings

- Less expensive than Cat1 because the Commonwealth Agency has done the work of locating and recruiting a Resource

Who Can Use This Contract?

Applicable Procurement Law: MGL c. 7, § 22; c. 30, § 51, § 52; 801 CMR 21.00

Eligible Entities:

01. Cities, towns, districts, counties and other political subdivisions;
02. Executive, Legislative and Judicial Branches, including all Departments and elected offices therein;
03. Independent public authorities, commissions and quasi-public agencies;
04. Local public libraries, public school districts and charter schools;
05. Public Hospitals, owned by the Commonwealth;
06. Public institutions of high education;
07. Public purchasing cooperatives;
08. Non-profit, UFR-certified organizations that are doing business with the Commonwealth;
09. Other states and territories with no prior approval by the State Purchasing Agent required; and
10. Other entities when designated in writing by the State Purchasing Agent.

Pricing and Acquisition Methods

Services will be obtained on a time and materials basis only. Travel may be paid only with your prior written consent.

A “Rate Card,” updated periodically, determines the maximum rates that Commonwealth Agencies can pay for particular job titles. Rate Card 5 applies to Executive Department agencies. All other Commonwealth Agencies may use Rate Card 3.

If you cannot negotiate a rate within the Rate Card rates, you may ask Ellen Wright (ellen.wright@state.ma.us), the designee of the Commonwealth’s Chief Information Officer, for a variance from the Rate Card.

The “bill rate” (what your Agency pays the ITS63 Vendor) for Category 2a is equal to the Resource’s “pay rate” plus the ITS63 Vendor’s charges. For Category 2b, the bill rate is the rate paid to the Resource’s

employer plus the ITS63 vendor's charges (under Category 2b, you won't necessarily know the Resource's ultimate pay rate, because the ITS63 vendor is subcontracting with the Resource's employer).

The usual practice is to negotiate a rate with the Resource and allow the Resource to choose the ITS63 Vendor they will work with, because the ITS63 Vendors' practices differ (payment scheduling, insurance provisions, etc.). You can do this in one of two ways:

- **Negotiate a "pay rate" with the Resource**

In this case, the bill rate to your Agency may be different depending on which ITS63 Vendor your Resource selects. Therefore you must be sure that if your Resource chooses the ITS63 vendor with the highest markup, the rate your Agency pays will be a) under the Rate Card maximum and b) within your budget. (Remember that for Category 2b, this is the pay rate to your Resource's employer.)

OR

- **Negotiate a "bill rate" with the Resource**

This is the amount your Agency will pay regardless of which ITS63 vendor the Resource chooses. The Resource will have a higher pay rate if they choose the ITS63 vendor with the lowest markup.

Pay rate and bill rate calculations for Category 2a

Category 2a (ITS63 Vendor hires the Resource as their employee)

| Vendor Name | Max Markup |
|----------------------------------|------------|
| M & R Consultants Corporation | 12.00% |
| McInnis Consulting Services Inc. | 12.99% |
| Modis | 14.50% |

These rates are higher than for Category 2b because the "markup" includes all the Employer taxes and other charges that the ITS63 Vendor must pay, typically at least 11% and often higher.

To calculate Resource's Pay Rate based on the Bill Rate:

$$\text{Pay Rate} = \text{Bill Rate} / (1 + \text{Markup})$$

To calculate Bill Rate to your Agency based on the Resource's Pay Rate:

$$\text{Bill Rate} = \text{Pay Rate} * (1 + \text{Markup})$$

There is a spreadsheet on the COMMBUYS contract that does these calculations for you (see [Locating Documents on COMMBUYS](#)).

Pay rate and bill rate calculations for Category 2b

Category 2b (ITS63 Vendor subcontract's with the Resource's employer)

| Vendor | Hourly Markup |
|----------------------------------|---------------|
| Modis | \$0.42 |
| Overture Partners LLC | \$0.50 |
| McInnis Consulting Services Inc. | \$0.54 |

To calculate Pay Rate to Resource's employer based on the Bill Rate:

$$\text{Pay Rate} = \text{Bill Rate} - (\text{Markup} + (\text{Bill Rate} * .01))$$

To calculate Bill Rate to your Agency based on the Pay Rate to the Resource's employer:

$$\text{Bill Rate} = \text{Pay Rate} + \text{Markup} + ((\text{Pay Rate} + \text{Markup}) * .01)$$

There is a spreadsheet on the "Attachments" or Summary tab of COMMBUYS that does these calculations for you (see [Locating Documents on COMMBUYS](#)).

How to Use this Contract

There are five steps for obtaining IT Resources under this Contract:

1. Recruit candidate and negotiate rate (see above to negotiate a [bill rate](#) or [pay rate](#)).
2. Give your Resource contact information for the appropriate contract (2a if the Resource will be hired by the ITS63 vendor, 2b if the ITS63 vendor will subcontract with the Resource's employer).
3. Sign an agreement with the ITS63 vendor. A Statement of Work (SOW) template is posted on COMMBUYS (see [Locating Documents on COMMBUYS](#)). You may use your own Agency's agreement, but be sure to cover all elements of the SOW template.
4. Submit a requisition through COMMBUYS (See [Submitting a Requisition through COMMBUYS](#)).
5. "On-board" the Resource.

"On Board" the Resource

I-9 Form: You may request copies of the I-9 (Employment Eligibility Verification) form from the ITS63 Vendor prior to the Resource's first day of work. If you do, review the area of the form on the right hand side of the page, about one third of the way down, beginning: "I attest, under penalty of perjury..." If the

box for “An alien authorized to work...” is checked, be sure that the authorization is current based on the expiration date.

Resources with H1-B Visas: The Department of Labor requires (20 CFR 655.734) the filing of a labor condition application (LCA) and a posting of a notice of the LCA filing for Resources with H1-B visas. The requirement can be met by Commonwealth Agencies by posting a copy of the notice, which the ITS63 Vendor will supply, at the Resource’s work site, in two conspicuous locations, for a period of ten days.

Representations by Resources Form: This form, found on COMMBUYS (see [Locating Documents on COMMBUYS](#)), must be signed by all Resources on or before their first day of work.

ITS63 Employee Certification Form: The Resource must bring this form to work on his/her first day (if not submitted previously). The form must be kept in the procurement file. A copy of the form is posted on COMMBUYS (see [Locating Documents on COMMBUYS](#)).

The “Resource Employer” will be the same as the ITS63 Vendor for Category 2a, but will be a different company for Category 2b. Review the form to ensure that the Resource is eligible to provide services under ITS63. The form indicates how questions must be answered for a Resource to be eligible.

During the Resource’s Engagement

Request a redacted copy of the W-2 for each Resource working at your Agency, on or about May 1st of each year, and keep it in the procurement file.

Category 2a only - MA Law Regarding Paid Sick Leave for Employees

Chapter 149 Section 148 C (M.G.L. c. 149, § 148C), effective July 1, 2015, requires that all employers with eleven employees or more offer paid sick time to their employees. One hour of sick time is accrued for every 30 hours of work. Employees began to accrue sick leave as of July 1, 2015. No more than 40 hours of paid sick leave may be taken during a calendar year. The text of M.G.L. c. 149, § 148C appears as an attachment in the Attachments section of this contract on COMMBUYS.

Under ITS63/ITS53 (hereinafter, ITSx3), Staff Augmentation Category 2a, where the ITSx3 vendor is the Resource employer, the vendors bid a fixed percentage over the amount paid to the Resource. In the ITS63 RFR, Bidders were asked to bid two different percentage markups: 1) if sick leave hours were compensated by the Vendor and 2) if they were covered by the Commonwealth Contract User.

Based on the bid responses, it would be more expensive for the Commonwealth if sick leave hours were compensated by the vendor. That is, the average markup rate bid by the vendors if they had to compensate the Resources for sick leave hours was more than what the Commonwealth Contract User would pay even if the Resources used the entire 40 hours of sick leave over the course of a year. Therefore, the Strategic Sourcing Team, which includes representation from the largest users of the contract, elected to accept the percentage markup application where the Commonwealth Contract User compensates the ITSx3 vendor for hours taken by the Resource as sick leave.

During any billing period for which leave is taken pursuant to the provisions of M.G.L. c. 149, § 148C for the hours or portions thereof for which the employee is paid under ITSx3 Staff Aug Cat2a, the ITSx3 vendor will:

- a. Invoice the hours worked as usual.
- b. Invoice hours for which the employee was compensated pursuant to the provisions of M.G.L. c. 149, § 148C on an additional invoice line, characterized as “Compensation to Vendor pursuant to M.G.L. c. 149, § 148C.”
- c. Relative to Chapter 149 Section 148 C Subsection e, the ITSx3 vendor will not invoice the Commonwealth Agency for which the Resource is providing services for any hours worked outside of the normally agreed work schedule unless the Commonwealth Agency has agreed in writing in advance that such hours may be invoiced.
- d. If notified by the employee in advance of the need to use earned sick time, pursuant to Chapter 149 Section 148 C Subsection g, the ITSx3 Vendor will provide written notification (email acceptable) as quickly as possible to the Commonwealth Agency for which the Resource is providing services.

Re: Item c above, Chapter 149 Section 148 C Subsection e provides that if, “by mutual consent of the employer and the employee, the employee works an equivalent number of additional hours or shifts during the same or the next pay period as the hours or shifts not worked due to reasons listed in subsection (c), an employee shall not be required to use accrued earned sick time for the employee’s absence during that time period and the employer shall not be required to pay for the time the employee was so absent.” That is, in effect, the employee may be allowed, by mutual agreement with the ITSx3 Vendor, to “make up” hours used as sick leave, rather than be paid for those hours, during the same or next pay period. Item c above provides that the Commonwealth Agency will not pay for such hours unless authorized in advance. That is, although “making up” hours is by the mutual consent of the ITSx3 vendor and the Resource, the Commonwealth Agency is not obligated to pay for such hours without advance authorization.

Commonwealth Agencies must bear in mind that the ITSx3 Vendor is the Resource employer, NOT the Commonwealth Agency. For example, Chapter 149 Section 148 C Subsection f provides that “...an employer may require certification when an earned sick time period covers more than 24 consecutively scheduled work hours...” The Commonwealth Agency may NOT require this of the Resource. Similarly, the Commonwealth Agency MAY NOT encourage the Resource to make up sick leave hours pursuant to item c above rather than taking them as paid sick leave, nor discourage the Resource from doing so. The Commonwealth’s only choice is whether or not they will authorize the ITSx3 vendor to pay for hours worked outside of the Resource’s normally scheduled hours pursuant to item c above.

Please note, compensating ITS63 Category 2a vendors for expenses involved in complying with this law is not optional for Contract Users. Failure to pay invoice lines labelled "Compensation to Vendor pursuant to Chapter 149 Section 148 C and D" is the same as failure to pay any other obligation incurred by the Commonwealth.

Additional Caveats and Benefits

- Under Category 2a (ITS63 Vendor is Resource’s employer), **you may offer the Resource a position with your Agency** as a regular employee or a “Contract Employee,” at any time. However, you **may not** encourage the Resource to leave their ITS63 employer and go to work for another company, such as a different “Low Overhead” vendor or other third party.
- Under Category 2b (ITS63 Vendor subcontracts with the Resource’s employer), **you may offer the Resource a position with your Agency** as a regular employee or a “Contract Employee” after they have been working continuously for your Agency for six months or more, provided that they are not here on an H1B visa. As above, you **may not** encourage the Resource to leave their ITS63 employer and go to work for another company.
- Vendors are **not obliged to conduct background checks** under the Lower Overhead contracts. If background checks are required, your Agency must conduct them.
- Under Category 2b, you have the right to request and receive a **copy of the subcontract**.
- **Do not** post a job on Monster.com or other job boards until you have given the ITS63 Full Service Vendors an opportunity to find a candidate for you. Above all, do not post the position elsewhere while it is posted for responses from the ITS63 vendors.

Additional Information

Continuing a Resource’s Engagement after the end of ITS63

Before the end of the Contract (7/1/2021), you may extend the term of your Agreement for a Resource or group of Resources for up to three years from the date you sign the extension. After ITS63 ends, the end

date of your Agreement cannot be extended further, and the bill rate cannot be increased. As always, you may end the engagement before the termination date of your Agreement. No new Agreements may be executed after ITS63 has expired.

Contract termination or suspension of a Vendor from new business under ITS63 does not automatically terminate any Agreements you have in place with that Vendor.

Locating Documents on COMMBUYS

The following documents are found on the Summary page of the Contract on COMMBUYS (also on the Attachment tab if you are logged in). To find a particular document without logging in, select one of the links below and click on the download icon (disk drive with down arrow):

- [Rate Cards 3 and 5](#)
- [Representations by Resources](#)
- [ITS63 Employee Certification Form](#)
- [Rate calculation spreadsheet](#)
- [Agreement Template \(Statement of Work\)](#)
- [ITS63 RFR](#)
- Chapter 149 Section 148 C (MA Sick Leave law for employees) (Category 2a only)

To locate the Contract on COMMBUYS without logging in:

1. Select COMMBUYS under OSD Programs at www.mass.gov/osd OR Enter <https://www.commbuys.com/bsol/> in your browser
2. Select "Contract & Bid Search"
3. Select "Contracts/Blankets"
4. Enter "ITS63StaffAugCat2a" or "ITS63StaffAugCat2b" (no quotes) as the "Contract/Blanket Description" (NOT the "Contract/Blanket #")
5. Select the "Find it" button
6. Select the PO links next to any of the three vendors listed (the contract for each vendor includes all of the attachments). Do not select the record ending in "vcurrent".

Attachments are links in the "Agency Attachments" field of the "Header Information" section.

To locate the Contract on COMMBUYS if you are logged in:

1. Select the magnifying glass
2. Select "Module" = "Purchasing Module" and "Document Type" = "Contracts/Blankets"
3. If your screen has an entry for "Header major status" under the "Contract/Blanket Description" field, select "3PS – Sent"
4. Follow steps 4 through 6 above

This view of the contract allows you to look at the contract information in separate tabs. The “Attachments” tab includes a description of each attachment and how it is to be used.

Submitting a Requisition Through COMMBUYS

Access the Job Aid [How to Order from a Master Blanket Purchase Order](#)

The following directions customize this Job Aid for this Contract:

General tab (Job Aid Step 4)

For “Requisition Type,” select “Release”

If consistent with how your Department is handling the “Short description” field, please include ITS63StaffAugCat2 somewhere in the “Short description.”

Items tab (Job Aid Step 5 and 6)

- Do not use the key word search – open the Advanced Search” function by clicking on the plus sign (+) by the Advanced Search Criteria title.
- Enter “ITS63StaffAugCat2a” or “ITS63StaffAugCat2b” (no quotes) into the **Description** field and select **Find It**.
- Select the Vendor.
- Select the line item.
- Enter **Quantity** (number of hours) and click **Add to Req & Exit**.
- Next enter the **Catalog/Unit Price Cost** (the hourly rate) by selecting the **Enter Info** link; you can now enter the negotiated rate.
- Select **Save & Exit**

Continue with Job Aid Step 7 and the remaining Steps.



Strategic Sourcing Services Team Members and Advisors

| | | |
|-------------------|---|---------|
| Alison Cahill | Executive Office of Labor and Workforce Development | Member |
| Brian Boyd | Executive Office of Labor and Workforce Development | Member |
| Charles Caron | Department of Public Health | Member |
| Eddie Pinkerton | City of Boston | Member |
| Edith Kwok | Department of Education | Member |
| Ellen Wright | MassIT (Information Technology) | Member |
| John Cadorette | MassDOT (Department of Transportation) | Member |
| Kara Banderier | Executive Office of Human Services | Advisor |
| Margaret Sullivan | Department of State Police | Member |
| MaryBeth Martinez | MassIT (Information Technology) | Member |
| Meng You | Executive Office of Education | Member |
| Rachelle Hersey | Executive Office of Administration and Finance | Member |
| Rose Romagna | Executive Office of Human Services | Member |
| Tim Kennedy | Operational Services Division | Advisor |

Vendors

| Vendor | Contact | Telephone | eMail | Contracts |
|----------------------------------|------------------|-----------------------|---------------------------------------|-----------|
| M & R Consultants Corporation | Subash Chitoor | 781-273-5050 Ext 1234 | subash@mrccsolutions.com | 2a only |
| McInnis Consulting Services Inc. | Bob McInnis | 781-659-4922 | rm@mcinnisconsulting.com | 2a and 2b |
| Modis | Justin Dyer | 781-262-5007 | justin.dyer@modis.com | 2a and 2b |
| Overture Partners LLC | Paul Chamberlain | 617-614-9600 | pchamberlain@overturepartner s.com | 2b only |